

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

KENNETH ADAM MARSHALL,

Petitioner,

v.

WARDEN, PICKAWAY
CORRECTIONAL INSTITUTION,

Respondent.

CASE NO. 2:15-CV-2775
JUDGE ALGENON L. MARBLEY
MAGISTRATE JUDGE KEMP

OPINION AND ORDER

On September 28, 2016, final judgment was entered dismissing the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. (ECF No. 24.) On October 20, 2016, the Court granted Petitioner's *Motion for Reconsideration* (ECF No. 25), permitting Petitioner to file objections to the Magistrate Judge's *Order and Report and Recommendation* for consideration by this Court. (ECF No. 27.) Petitioner has filed a *Responsive Pleading to the Court* (ECF No. 30), which the Court will construe as Petitioner's objections to the Magistrate Judge's recommendation of dismissal of this case. (See ECF No. 21.)

Therefore, the *Order Adopting the Report and Recommendation and Judgment* of dismissal of this action (ECF Nos. 23, 24) without consideration of Petitioner's objections are **VACATED**.

Pursuant to 28 U.S.C. § 636(b), this Court has conducted a *de novo* review. For the reasons that follow, Petitioner's objections (ECF No. 30) are **OVERRULED**. The *Order and Report and Recommendation* (ECF No. 21) is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

In his *Responsive Pleading to the Court*, Petitioner indicates that he has submitted exhibits demonstrating that he provided notice to the Respondents requesting processing of the warrants, detainers and holders against him, which were ignored. Additionally, he states that he requested and was denied participation in programs, “PRC/Early Release” and suffered other losses as a result. He has attached documents in support of this claim.

However, this case relates to a detainer that apparently has been placed against Petitioner by the State of Indiana. Petitioner has failed to meet the requirement that he be “in custody” so as to obtain federal habeas corpus relief. *See* 28 U.S.C. § 2254(a); *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968). Moreover, Petitioner has been released from prison, and the Warden of the Pickaway Correctional Institution is not a party against whom a challenge to out-of-state warrants may be brought.

Petitioner has presented no basis for the reconsideration of the Magistrate Judge’s recommendation of dismissal of this case. For these reasons, and for the reasons addressed in the Magistrate Judge’s *Order and Report and Recommendation*, Petitioner’s objections (ECF No. 30) are **OVERRULED**.

The *Order and Report and Recommendation* (ECF No. 21) is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

IT IS SO ORDERED.

s/Algenon L. Marbley
ALGENON L. MARBLEY
United States District Judge